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SENSITIVE BUT UNCLASSIFIEDAssistant Secretary Kerri-Ann Jones'
Meeting with CEO of TransCanada Russell K. Girling

DATE: February 10, 2011
 LOCATION: HST Room 3940
 TIME: 1:00 PM

PARTICIPANTSU.S. Department of State

A/S Kerri-Ann Jones, OES
 PDAS Daniel Clune
 Keith Benes L/ENV or
 John Schnitker L/OES
 Alex Yuan, OES/ENV

Invited:

David Hermann, WHA/CAN

TransCanada Party

Russell Girling, CEO of TransCanada
 Robert Jones, Vice President of Keystone Pipelines
 Alex J. Pourbaix, President of Energy and Oil Pipelines
 (a subsidiary of TransCanada)
 James P. White, General Counsel

KEY OBJECTIVE:

- Provide assurance that the State is acutely aware of the need for a timely decision on the TransCanada's Keystone XL application and is not interested in unnecessarily delaying its decisional process.

CONTEXT:

You will be speaking with Russell Girling, CEO of TransCanada, who requested this meeting. This is part of an effort in the past few weeks by TransCanada and the Canadian Government on a number of fronts to reach out to the U.S. Government on TransCanada's Presidential permit application for the Keystone XL pipeline. Last week, TransCanada's general counsel met with the White House Council on Environmental Quality (CEQ) and asserted that State should proceed directly to a final EIS and that unless the project was permitted before the end of 2011, TransCanada would have to cancel the project. In addition, last week Deputy Minister for Natural Resources Canada, Serge Dupont, in a meeting with PDAS Dan Clune at State, devoted substantial time to the issue of Keystone project and the oil sands. He stressed the importance of the pipeline for both countries and, recognizing how contentious the issue has become, explained the progress made on reducing the environmental impacts of the oil sands.

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Prime Minister Harper, speaking to reporters at a news conference with President Obama last week also reiterated the same theme, remarking "that it's in the United States' national security interest to import oil from Canada" and that Canada is "the most secure, most stable and friendliest location (the United States) can possibly get that energy."

Keystone XL Application:

Russell Girling's visit comes as the Department is about to decide whether to issue a Supplemental EIS requesting further public comment or a Final EIS. This decision may have a major impact on timing. TransCanada has stated to State that a Supplemental EIS would likely result in higher construction costs if it misses the crucial summer and fall months for this year for pipeline construction (assuming a permit were granted) and must delay construction until 2012.

Mr. Girling will likely bring up three issues: 1) that a Supplemental EIS is not needed because TransCanada has already met what is legally required to address the potential environmental impacts of the pipeline 2) that a recent report from Department of Energy shows that the Keystone project will not impact the pace of oil extraction in Canada and 3) that the project is at risk of cancellation if a decision is not made soon.

Background

The major issue for the Department in the next few weeks is the status of the next version of the EIS: whether it will be a Final EIS, allowing the Department to proceed to the final interagency process for consideration of the Presidential Permit, or a Supplemental EIS, requiring another public comment period. The Department's decision on this matter will have a substantial impact on the schedule, adding possibly up to six months to the environmental review process. The Department's decision on whether to issue a Supplemental EIS depends in large part upon three studies focused on: 1) analyzing the effects of the pipeline on the market for crude oil; two, how oil sands will affect pipeline safety; and 3) a summary review of the literature analysing greenhouse gas emissions associated with oil sands production. All three studies will likely be ready within weeks, which should allow the Department to make a decision on whether to issue a Supplemental or Final EIS within the first quarter of the 2011.

Other IssuesSENSITIVE BUT UNCLASSIFIED

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Two other topics that could be mentioned during the meeting are 1) the State Department's consideration of an alternative route for the pipeline to avoid Nebraska's Ogallalah aquifer and the Sandhills area; and 2) the Bakken Marketlink, a TransCanada project that will allow oil producers in Montana and South Dakota to utilize the Keystone XL pipeline to ship their oil to the Gulf Coast.

Many members of Congress, especially state and federal legislators from Nebraska, have written letters to State opposing to the current routing of the pipeline, as it passes directly through the Ogallalah aquifer and the Sandhills region, a mixed grass prairie of ecological importance. Both Senators from Nebraska, Senators Johanns and Nelson, as well as Nebraska Governor Heineman, have requested that the State Department consider an alternative path for the Keystone XL pipeline, including one parallel to an existing right of way located east of the Sandhills region. Depending on how the Department decides to address these concerns, a supplemental EIS may be necessary.

The Bakken Marketlink and Cushing Marketlink projects involve the construction of additional facilities (primarily storage tanks in Montana and Oklahoma) to allow domestic crude-oil producers to utilize a portion of the Keystone XL pipeline capacity. Both projects were speculative when the draft EIS was issued, but TransCanada has recently announced they have received sufficient commercial interest to proceed with both projects. NGOs have been requesting a Supplemental EIS to fully address the impacts of those additional projects. The Department has not yet made a decision on whether the change in status of those projects requires supplementation to the EIS.

Talking Points

- State understands TransCanada's desire to see a quick and positive resolution of the Keystone XL regulatory process and that we are acutely aware of the financial and practical issues for TransCanada as time passes.
- The Department must conduct a thorough and balanced review of the Keystone XL pipeline. We are seeking to ensure that all available and relevant information and analyses are included in any final Environmental Impact Statement.
- If raised: we are unable to provide specific details or dates as to the next step of the Environmental Impact Statement (EIS) given the political and legal issues surrounding the pipeline. This is a contentious issue and we have to be cognizant of possible litigation against State

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- If raised: while we understand TransCanada's desire for a quick, positive decision, the pace of the permitting process is dependent on a variety of factors, including the company's own ongoing negotiations with other federal agencies and entities. State will not try to influence other federal agencies or entities in order to expedite the process.

IF RAISED:

Russell Girling's visit could be an opportunity to explain that TransCanada, not just State, plays a major role in the pace of the permitting process. It is a chance to for State to directly let the principals in TransCanada understand that, although they are urging State to act quickly, other people within their own company have taken positions in negotiations with other federal agencies and entities that will also determine the pace of the permitting process.

If Russell Girling and the TransCanada group express frustration at State's permitting process, State should be ready to request a meeting with working level contacts to go over the details of TransCanada's position on three major issues: 1) the American Council on Historical Preservation's (ACHP) request to become "officially" involved in all negotiations with Indian tribal groups over the terms of the programmatic agreement; 2) the Fish and Wildlife Agency's request for State to become "officially" involved in all negotiations over the American Burying Beetle (a listed Endangered Species); and 3) a decision by TransCanada on the additional safety requirements proposed by PHMSA that they will accept on the pipeline.

At the same time, State needs to stress that we have no desire to influence TransCanada's actions in order to expedite the process. We will work with other federal agencies to reach terms that mutually agreeable to both parties.

Although there is a small chance that Mr. Girling will not be aware of these issues, others in his party, specifically Robert Jones and James White, will be aware of the specific details of the negotiations, and should be able to meet with State's working level contacts.

Comment [Y1]: I think the full background on these is too complicated for A/S at this meeting. Also, the biggest item State is waiting for is for our Contractor to complete edits to the EIS. These other items have not caused any delay to the EIS, and are unlikely to. If you're going to go down this road, I think you need to tell Kerri-Ann the specifics, so that she is aware of them and can respond. If she were to make the statement in the text, Girling's likely response will be "what people" and "what agencies and entities?"

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Attachments:

- Tab 1 – Biography of Russell Girling
- Tab 2 – Biography of Robert Jones
- Tab 3 – Biography of Alex J. Pourbaix

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